



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING SYSTEMS COMMAND
BASE REALIGNMENT AND CLOSURE
PROGRAM MANAGEMENT OFFICE WEST
33000 NIXIE WAY, BLDG 50 Suite 207
SAN DIEGO, CA 92147

5000-110
Ser BPMOW.hmw/278
September 28, 2021

Mr. Jeff Ruch
Public Employees for Environmental Responsibility
962 Wayne Avenue, Suite 610
Silver Spring, MD 20910

Dear Mr. Ruch:

This correspondence is in regard to your Freedom of Information Act (FOIA) request dated May 3, 2021 in which you seek eleven separately enumerated categories of records related to the Hunters Point Naval Shipyard ("HPNS") located in San Francisco, California.

Your request was received in this office on May 4, 2021 and assigned file number DON-NAVY-2021-006290. Please cite this number in any future communications with our office regarding this request. Your requests seeks the following:

- 1) *For the proposed RBA near Building 810 –*
 - a) *All documents discussing and/or purportedly demonstrating why that area would or would not be considered not potentially radiologically impacted.*
 - b) *All document(s) that include or refer to-*
 - i) *Alpha/beta and gamma measurements of the potential Building 810 RBA;*
 - ii) *Any comparison of those measurements to measurements at the submarine pens and/or Finger Piers; and*
 - iii) *Any discussion or analysis of the appropriateness or lack of appropriateness of using the Building 810 as an RBA, and any documents relating to the justification and reasoning that led to the decision to not in the end use Building 810 as an RBA.*
- 2) *For the proposed RBA at the concrete pad in Parcel C –*
 - a) *All documents discussing and/or purportedly demonstrating why that area would or would not be considered not potentially radiologically impacted. This should include all evidence as to when the pad was created.*
 - b) *All document(s) that include or refer to –*
 - i) *Parcel C concrete pad alpha/beta and gamma measurements;*
 - ii) *Any comparison of those measurements to measurements at the submarine pens and/or Finger Piers; and*
 - iii) *Any discussion or analysis of the appropriateness or lack of appropriateness of using the concrete pad in Parcel C as an RBA, and any documents relating to the justification and reasoning that led to the decision to not in the end use the concrete pad in parcel C as an RBA, for alpha/beta and/or gamma background, and for either or both the submarine pens and Finger Piers.*

- 3) *For the proposed RBA at the concrete pad near Survey Unit 3 in the submarine pens –*
 - a) *All documents discussing and/or purportedly demonstrating why that area would or would not be considered not potentially radiologically impacted. This should include all evidence as to when the pad was created.*
 - b) *All document(s) that include or refer to –*
 - i) *The alpha/beta and gamma measurements for this proposed RBA;*
 - ii) *Any comparison of those measurements to measurements at the submarine pens and/or Finger Piers; and*
 - iii) *Any discussion or analysis of the appropriateness or lack of appropriateness of using this area as an RBA, and any documents that relate to the justification and reasoning that led to the decision to not in the end use this area as an RBA, for alpha/beta and/or gamma background, and for either or both the submarine pens and Finger Piers.*
- 4) *All documents upon which Field Change Request 4, dated September 26, 2019, included in appendices to the survey reports cited above, was based, or which discuss the findings which led to the Field Change Request. In particular, all documents that form the basis for or otherwise discuss the conflict noted in the Field Change request between the Conceptual Site Model (CSM) and the data from surveys of the proposed RBA (e.g., the Parcel C concrete) and the submarine pens and/or the Finger Piers.*
- 5) *All documents discussing what action to take given the elevated readings found at the Parcel C concrete pad compared to the Finger Piers and/or submarine pens, and the implications for the presumptions on which the CSM are predicated.*
- 6) *All documents identifying actions taken or to be taken to investigate the rest of HPNS that had also been declared to be presumptively non-impacted.*
- 7) *Document(s) establishing the referenced conceptual site model and the document(s) in which the measurements at the prospective RBAs were compared against the CSM, to the extent not included in response to the above document categories.*
- 8) *Documents showing what search was conducted for other potential RBAs for use in the scoping surveys of the submarine pens and Finger Piers, and why they were rejected.*
- 9) *Documents discussing the appropriateness or inappropriateness of using as RBAs for these scoping surveys areas within the Superfund Site.*
- 10) *All document(s) justifying and/or discussing the decision to use gamma investigation levels that are the average static measurement plus three standard deviations.*
- 11) *All communications between the Navy and the US EPA regarding the scoping surveys of the submarine pens and Finger Piers, and regarding the appropriateness of RBAs that were considered.*

A letter dated May 20, 2021 provided a final determination on your FOIA request. A search for responsive records has been completed and approximately 364 potentially responsive records have been located. This letter provides the third of multiple phases of release. Additional records will be released to you in phases as documents are determined to be responsive to your request. The nature of this particular FOIA request requires a multi-step search and review process for a reasonable search of records. For requests with broad scopes, like this one, we first

search document repositories using keywords. The results of this search yields “potentially responsive documents.” Some or many of these initial results are found to be not responsive during the subsequent “review” step. Accordingly, broad requests like this can yield a large difference between “potentially responsive records” and “responsive records” which can also lead to longer release timeframes.

Today’s interim release addresses 33 records that have been identified as potentially responsive:

- 20 were deemed not responsive to the request;
- 1 record is a duplicate;
- 3 records are withheld in full under FOIA Exemption 5;
- 6 record is partially withheld under FOIA Exemption 4;
- The 3 remaining records are released to you in full.

The instances of exempt information have been redacted.

FOIA Exemption 4 [5 U.S.C. § 552(b)(4)]exempts from disclosure “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.” The trade secrets associated with this exemption relates to business phone and conference call numbers which belong to our contractors and contract cost information and could cause competitive harm if released.

FOIA Exemption 5 [5 U.S.C. § 552 (b)(5)] exempts from disclosure records that reflect the Navy’s internal deliberations, the release of which could be harmful by discouraging the free and frank exchange of opinions or potentially result in public confusion by disclosing information that is not consistent with the outcome of the deliberative process.

Please be advised that fees associated with the processing of your request are waived in this instance.

You have the right to an appeal. It must be received (i.e., post-marked if by mail or submitted if by FOIAonline) within 90 calendar days from the date of this letter. Please provide the following in your appeal:

- a letter requesting an appeal that explains what you are appealing with any supporting arguments or reasons you think may be worthy of consideration;
- a copy of your initial request;
- a copy of the letter of denial.

There are two ways to file an appeal—through FOIAonline or by mail.

1. Through FOIAonline. This will work only if you set up an account on FOIAonline before you make the request that you would like to appeal. To set up an account, go to FOIAonline.gov,

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click "Create Account" (a link located within the blue banner at the top in the upper right corner), enter your data into the field that subsequently appears, and click "Save" (at the bottom left of the screen). With your account thereby created, you will be able to file an appeal on FOIAonline for any request you file on FOIAonline thereafter. To do so, locate your request (enter a keyword or the request tracking number in the "Search for" field on the "Search" tab), click on it, then the "Create Appeal" tab in the left-hand column. Complete the subsequent field, click "Save," and FOIAonline will submit your appeal.

2. By mail. Address your appeal to:

Department of the Navy
Office of the General Counsel
1000 Navy Pentagon, Room 5A532
Washington, DC 20350-1000

Whichever method is used to file your appeal, please also provide a copy to us at heather.wochnick@navy.mil, or:

NAVFAC BRAC PMO West
33000 Nixie Way
Bldg 50 Suite 207
Attn: Heather Wochnick
San Diego, CA 92147

Please note that as a result of increases in the Health Protection Condition (HPCON) level, the BRAC PMO offices are limited to mission-essential personnel only and are maximizing the use of telework for other personnel. You are strongly encouraged to submit a copy of your appeal to BRAC PMO via email to ensure we receive timely notification that you have filed an appeal in accordance with the instructions above.

Please direct any questions concerning this matter to Ms. Meredith Richards, who may be contacted at meredith.richards@navy.mil or (619) 524-1637. You may also contact the DON FOIA Public Liaison, Christopher Julka, at christopher.a.julka@navy.mil, (703) 697-0031. In addition, the Office of Government Information Services (OGIS) provides a voluntary mediation process for resolving disputes between persons making FOIA requests and the Department of the Navy (DON). For more information, go to <https://www.archives.gov/contact>.

Sincerely,

KIMBERLY A. OSTROWSKI
Director